

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

In re: PHARMACEUTICAL INDUSTRY	)	
AVERAGE WHOLESale PRICE	)	
LITIGATION	)	MDL No. 1456
	)	Civil Action No. 01-12257-PBS
	)	
<b>THIS DOCUMENT RELATES TO:</b>	)	Hon. Patti Saris
	)	
<i>United States of America ex rel. Ven-a-Care of</i>	)	
<i>the Florida Keys, Inc., v. Abbott Laboratories,</i>	)	
<i>Inc., and Hospira, Inc.</i>	)	
CIVIL ACTION NO. 06-11337-PBS	)	

**UNITED STATES' AND RELATOR'S UNOPPOSED MOTION  
FOR EXTENSION OF TIME TO FILE BRIEF IN OPPOSITION  
TO DEFENDANT HOSPIRA, INC.'S MOTION TO DISMISS**

The United States of America and Relator, Ven-A-Care of the Florida Keys, Inc. ("Plaintiffs"), by and through the undersigned counsel in the case captioned *United States of America ex rel. Ven-A-Care of the Florida Keys, Inc. v. Abbott Laboratories, Inc., and Hospira, Inc.*, hereby file this Motion for an extension of time from September 1, 2006 until September 15, 2006, to file their brief in opposition to Hospira, Inc.'s ("Hospira") motion to dismiss. September 15 is the deadline by which the United States has been requested to file a brief with the Court regarding the United States' interpretation of key legal terms in this litigation. The United States has also moved in a separate motion [Docket Entry 3012] for an extension of time in which to file their brief in opposition to Abbott Laboratories, Inc.'s motion to dismiss. The United States will be able to coordinate them more efficiently if it is permitted to submit its responsive memorandum regarding Hospira on September 15, 2006 as well.

Counsel for Hospira has indicated that they consent to the brief extension requested herein. Therefore, the United States respectfully requests that this Court extend the deadline for the United States' and Relator's brief in opposition to defendant's motion to dismiss until September 15, 2006.

### **DISCUSSION**

The United States intended to respond to Hospira's motion to dismiss without having to ask for an additional extension of time. However, the parties have been engaging in a dialogue regarding certain of the facts relating to Hospira which has taken longer than expected and that process was further hampered by the weather related closing of the U.S. Attorney's Office for the Southern District of Florida and by a major malfunction of the office's telephone system. In addition, the various levels of approval required within the government regarding this matter necessitate more time as well. Therefore, the United States requests that the deadline for filing its opposition brief be extended until September 15, 2006, the existing deadline for its AWP brief.

There would be no prejudice to the defendants by the granting of this brief extension. As the United States did before with respect to Hospira's motion, the United States naturally would not object to Hospira having a reasonable time to submit its reply brief.

### **CONCLUSION**

For the reasons set forth above, the United States and Relator respectfully request that the

Court grant their motion for an extension of time until September 15 to file their brief in opposition to Hospira's motion to dismiss.

Respectfully submitted,

For the United States of America,

R. ALEXANDER ACOSTA  
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SOUTHERN DISTRICT OF FLORIDA

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day caused an electronic copy of the above **UNITED STATES' AND RELATOR'S MOTION FOR EXTENSION OF TIME TO FILE BRIEF IN OPPOSITION TO DEFENDANT HOSPIRA, INC.'S MOTION TO DISMISS** to be served on all counsel of record via electronic service pursuant to Paragraph 11 of Case Management Order No. 2 by sending a copy to LexisNexis File & Serve for posting and notification to all parties.

Dated: September 1, 2006

/s/ Mark A. Lavine

Mark Lavine